



Calculating the Deadline for Filing a Trial Certificate

Supreme Court Civil Rule 12-4 states (Supreme Court Family Rule 14-5):

- (1) Each party of record must file a trial certificate in Form 42 (Family, Form F46) in the registry where the trial is to be held.
- (2) A trial certificate must be filed at least 14 days before but not more than 28 days before the scheduled trial date.

Sub-sections 25.2(2) and (3) of the *Interpretation Act* state:

- (2) Subject to subsection (3), the beginning or end of a period of one day or consecutive days or of one week or consecutive weeks, expressed in relation to a reference day, is to be determined as follows:
 - (a) if the reference day is before the period, by counting forward from and including the day after the reference day;
 - (b) if the reference day is after the period, by counting backward from and including the day before the reference day.
- (3) If a period described in subsection (2) is expressed as "clear" days or weeks or "at least" or "not less than" a number of days or weeks,
 - (a) the beginning or end of the period, as determined under subsection (2) (a), is one day later, and
 - (b) the beginning or end of the period, as determined under subsection (2) (b), is one day earlier.

Sub-section 25(3) of the *Interpretation Act* states:

- A period for doing an act that is determined under section 25.2, 25.3 or 25.4 to begin or end on a holiday begins or ends, as the case may be,
- (a) if the reference day is before the period, on the next day that is not a holiday, and
 - (b) if the reference day is after the period, on the previous day that is not a holiday.

"Holiday" includes Sunday. See section 29 of the *Interpretation Act* for a list of holidays.

Therefore, in calculating the date by which a trial certificate must be filed, neither the date of filing nor the trial date is counted. In situations where the 14th day falls on a Saturday, Sunday or other day that the registry is closed, it will be necessary to file the trial certificate on or before the last business day that allows for a 14 day period, not counting the date of filing or the scheduled trial date. **See next page for examples.**

Trial Certificate – Consequence of failure to file

Supreme Court Civil Rule 12-4(5) states (Supreme Court Family Rule 14-5(5)):

Unless the court otherwise orders, if no party of record files a trial certificate, the trial must be removed from the trial list.

The managers of Supreme Court scheduling have no authority to extend the time of filing or to restore a matter to the trial list. If the Trial Certificate has not been filed by the deadline established by the *Supreme Court Civil Rules* or *Supreme Court Family Rules*, the matter will be struck from the trial list.

February 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14 Deadline to file trial certificate for trial on March 3	15
16	17 Family Day	18	19	20	21	22
23	24	25	26	27	28 Deadline to file trial certificate for trial on March 16	29

March 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Deadline to file trial certificate for trial on March 17	3 Trial	4	5	6	7
8	9	10	11	12	13	14
15	16 Trial	17 Trial	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- **Example A** – A trial is scheduled on March 3. The last day a party can file a trial certificate is February 14.
- **Example B** – A trial is scheduled on March 16. The last day a party can file a trial certificate is February 28.
- **Example C** – A trial is scheduled on March 17. The last day a party can file a trial certificate is March 2.